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Director

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# MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION

## RFB NOTIFICATION PAGE

### **RFB Coordinator/Contact**

Ms. Frankie Ryan  
Procurement Agent  
Missouri Department of Transportation  
830 MoDOT Drive, P.O. Box 270  
Jefferson City, MO 65102  
PHONE: 573-522-9481  
FAX: 573-526-1218  
Frankie.Ryan@modot.mo.gov

### **RFB Number and Bid Deadline**

MoDOT has assigned the following RFB identification number – it should be referenced in all communications regarding this RFB: **RFB 1-080331FR**. All bids and/or amendments must be submitted no later than **March 31 2008, 2:00 PM (LOCAL TIME)** and per the terms and conditions of this RFB.

### **Request for Bid**

MoDOT is currently seeking bids from qualified Bidders who can provide **“Copy Machine Maintenance Service”**. If you would like information on this Request for Bid and any/all subsequent amendments, please log on to our website, [http://www.modot.mo.gov/business/contractor\\_resources/Commodities.htm](http://www.modot.mo.gov/business/contractor_resources/Commodities.htm) and follow the below procedures:

- Click on the Central Office & Statewide Contracts Map to the right of the page.
- Under the Title Column, select the above referenced bid.

After an award is made, the results of the tabulation will be posted on the website listed above under the Tabulation Column.

***\*\*\*NOTE: ADDENDA TO THE RFB: It is the responsibility of the Bidder to access MoDOT's website in order to obtain any and all addenda(s) issued during the course of this RFB Process.***

This document constitutes an RFB, and solicits **competitive sealed bids** from qualified Bidders to provide the above referenced items/supplies. The issuance of a bid in no way constitutes a commitment to award a contract or to pay any costs incurred in preparation of a response to a bid.

All questions regarding this RFB shall be submitted to the RFB Coordinator/Contact.

### **Note to Respondent**

*A vendor must be in compliance with the laws regarding conducting business in the State of Missouri. The compliance to conduct business in the state shall include but may not be limited to: Registration of business name, vendors MUST submit a bid/proposal that identifies the company name that is registered to do business in the State of Missouri. All vendors who are required to execute a contractual agreement MUST submit a copy of their certificate with the signed copy of the contract agreement before the purchasing department can proceed with MoDOT legal contract approval.*

***Our mission is to provide a world-class transportation experience that delights our customers and promotes a prosperous Missouri.***

**BID FORM**

MISSOURI DEPARTMENT OF TRANSPORTATION  
 GENERAL SERVICES  
 830 MoDOT DRIVE – P.O. BOX 270  
 JEFFERSON CITY, MO 65102

REQUEST NO.	1-080331FR		
DATE	March 18, 2008		
PAGE NO.	1	NO. OF PAGES	8

SEALED BIDS, SUBJECT TO THE ATTACHED CONDITIONS WILL BE RECEIVED AT THIS OFFICE UNTIL

**2:00 P.M., LOCAL TIME, MARCH 31, 2008**

AND THEN PUBLICLY OPENED AND READ FOR FURNISHING THE FOLLOWING SUPPLIES OR SERVICES.

**BIDS TO BE BASED F.O.B. MISSOURI DEPARTMENT OF TRANSPORTATION**

Submit net bid as cash discount stipulations will not be considered

Jefferson City, Missouri

SIGN THIS PAGE AND RETURN BEFORE TIME AND DATE SET FOR OPENING.

**BUYER:** Frankie Ryan

**BUYER TELEPHONE:** 573-522-9481

**ITEM NO.**                      **SUPPLIES OR SERVICES**

Contract for furnishing “**COPY MACHINE MAINTENANCE SERVICE**” for a contract period beginning April 1, 2008 through March 31, 2009.

**Note to Respondent:** A vendor must be in compliance with the laws regarding conducting business in the State of Missouri. The compliance to conduct business in the state shall include but may not be limited to: Registration of business name, vendors **MUST** submit a bid/proposal that correctly and accurately identifies the company name that is registered to do business in the State of Missouri. All vendors who are required to execute a contractual agreement **MUST** submit a copy of their certificate with the signed copy of the contract agreement before the purchasing department can proceed with MoDOT legal contract approval.

(SEE ATTACHED FOR CONDITIONS AND INSTRUCTIONS)

*In compliance with the above Request For Bids (RFB), and subject to all conditions thereof, the undersigned bidder agrees to furnish and deliver any or all the items on which prices were quoted within the guidelines specified in this bid.*

**Date:** \_\_\_\_\_  
**Telephone No.:** \_\_\_\_\_  
**Fax No.:** \_\_\_\_\_  
**Federal I.D. No.** \_\_\_\_\_

**Firm Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
**By (Signature):** \_\_\_\_\_  
**Type/Print Name** \_\_\_\_\_  
**Title:** \_\_\_\_\_

Form E-103 (Rev. 11-04)

Is your firm MBE certified?

Yes     No

Is your firm WBE certified?  Yes     No

List all agencies your firm is currently certified with. \_\_\_\_\_

## **1.0 INTRODUCTION AND ORGANIZATION**

- 1.1 MoDOT is seeking a qualified contractor to perform on-site maintenance services for a Canon IR110 Canon Copier, serial number NQU00266, producing 400,000 copies per month, located in Jefferson City, Missouri.

## **2.0 BID SUBMISSION INFORMATION**

- 2.1 Your written bid must be mailed in **a sealed** envelope or box, or else delivered by hand or courier service (UPS, Federal Express, etc.) to be *received on or before the date and time specified on the front page of this bid document*, at the office of the RFB Coordinator:

Ms. Frankie Ryan  
Missouri Department of Transportation  
General Services - Procurement  
830 MoDOT Drive; P.O. Box 270  
Jefferson City, MO 65102

- 2.2 All documents must be sealed and should be clearly marked "**Bid for Copy Machine Maintenance Service**".

2.2.1 The Bidder should include a completed copy of **Attachment A and Attachment B**, and any other requested or required information, along with the signed bid pricing document. All questions regarding the RFB shall be submitted to the RFB Coordinator.

2.2.2 The Bidder agrees to provide the services specified herein at the firm, fixed price stated on the Pricing Pages, under the terms of this Request for Bid.

### **2.3 Open Competition / Request For Bid Document**

2.3.1 It shall be the Bidder's responsibility to ask questions, request changes or clarification, or otherwise advise MHTC if any language, specifications or requirements of an RFB appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the RFB to a single source. Any and all communication from Bidders regarding specifications, requirements, competitive bid process, etc., must be directed to the buyer noted above, unless the RFB specifically refers the Bidder to another contact. Such communication should be received at least three (3) working days prior to the official bid opening date.

2.3.2 Every attempt shall be made to ensure that the Bidder receives an adequate and prompt response. However, in order to maintain a fair and equitable bid process, all Bidders will be advised, via the issuance of an amendment to the RFB, of any relevant or pertinent information related to the procurement. Therefore, Bidders are advised that unless specified elsewhere in the RFB, any questions received less than three (3) working days prior to the RFB opening date may not be answered.

2.3.3 Bidders are cautioned that the only official position of the State of Missouri is that which is issued by MHTC in the RFB or an amendment thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.

2.3.4 MHTC monitors all procurement activities to detect any possibility of deliberate restraint of competition, collusion among Bidders, price-fixing by Bidders, or any other anticompetitive conduct by Bidders which appears to violate state and federal antitrust laws. Any suspected violation shall be referred to the Missouri Attorney General's Office for appropriate action.

### **2.4 Contract Award – Contract Period – Contract Renewal**

2.4.1 MHTC will be awarding the bid to the lowest, responsive bidder as determined by the per month maintenance service cost. The contract period is April 1, 2008 through March 31, 2009 with two (2) one-year renewal option periods, or any portion therein.

2.4.2 If the option for renewal is exercised by the Missouri Department of Transportation, the successful bidder shall agree to all terms and conditions of this RFB and all subsequent amendments. Renewal options are at the sole discretion of the Missouri Department of Transportation upon mutual consideration of both parties.

- 2.4.3 The bidder shall provide as noted on the bid pricing page, the maximum percentage of increase for each renewal period. The percentage shall be computed against the current contract price during the renewal period. If renewal percentage is not provided, the prices during renewal periods shall be the same as during the current contract period.
- 2.4.4 Bid Review: Bids will be reviewed to determine if the bid complies with the mandatory requirements, and to determine the lowest and best bid.
- 2.4.5 The Bidder shall provide a firm, fixed price for the original contract period for providing the deliverables/services in accordance with the provisions and requirements of this RFB. All costs associated with providing the required deliverables/services shall be included
- 2.5 **Rejection of Bids:** MHTC reserves the right to reject any or all bids, for any reason whatsoever.
- 2.6 **Out of State Vendors:** Out of state vendors will be required to submit a copy of his/her Out of State Transient Employer's Certificate as issued by the Missouri Department of Revenue (DOR). The contractor must be able to obtain a tax payment bond in the amount currently required by the DOR. If all the appropriate information is made available to the DOR, it may take 2-3 weeks for the contractor to obtain the tax bonding and "Certificate of Registration".

### **3.0 GENERAL REQUIREMENTS**

- 3.1 The Contractor shall perform on-site maintenance services for a Canon IR110 Canon Copier, serial number NQU00266, located in Jefferson City, Missouri as outlined in this RFB.
- 3.2 The contractor shall provide all deliverables/services to the sole satisfaction of MHTC.
- 3.3 Unless otherwise specified herein, the contractor shall furnish all material, labor, facilities, equipment, and supplies necessary to provide the deliverables/services required herein.

### **4.0 COMPONENTS OF AGREEMENT**

- 4.1 The Agreement between MHTC and the successful Bidder shall consist of: the RFB and any written amendments thereto, the "Standard Bid/Proposal Provisions, General Terms and Conditions and Special Terms and Conditions" that are attached to this RFB and the bid submitted by the Bidder in response to the RFB.
- 4.2 However, MHTC reserves the right to clarify any relationship in writing and such written clarification shall govern in case of conflict with the applicable requirements stated in the RFB or the Bidder's bid. The Bidder is cautioned that its bid shall be subject to acceptance by MHTC without further clarification.

### **5.0 COMMISSION REPRESENTATIVE**

- 5.1 Commission Representative: The Commission's *Community Relations Coordinator* is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this agreement.

### **6.0 SPECIFIC REQUIREMENTS**

- 6.1 The Contractor shall provide on-site maintenance/services support.
- 6.2 The Contractor's on-site maintenance shall include preventive maintenance calls and all remedial service calls required by MoDOT and found to be necessary by the Commission's representative to maintain the equipment in optimum operating condition.
- 6.3 Each regularly scheduled preventative maintenance call shall include a complete inspection, essential cleaning, lubrication, replacement of worn or broken parts, and mechanical adjustments to accommodate for new parts or to compensate for wear. Preventative maintenance should also include replacement of the equipment's ozone filter as recommended by the manufacturer.
- 6.4 The Contractor's on-site maintenance shall include all labor, mileage and travel time to the on-site location.

- 6.5 Maintenance shall include all supplies required for the operation of the entire system, including but not limited to: toner, developer, oil, rollers, belts, computers, monitors, scanners, etc. paper, staples and staple wire shall be excluded.
- 6.6 The Contractor shall provide maintenance during standard operating hours (8:00 am to 5:00 pm local time) Monday through Friday. After hour and weekend service must be available upon request of MoDOT.
- 6.7 The Contractor shall guarantee a minimum of two (2) hours average on-site response time from time of notification.
- 6.8 The Contractor must have a minimum of two (2) service technicians certified in the maintenance of the equipment identified herein, and are based within a 50-mile radius of Jefferson City, Missouri.
- 6.9 MoDOT shall not pay for copy charges arising from either the Contractor's service calls, or copies which are unusable due to poor copy quality. MoDOT will give unusable copies to the service technician to be given copy credits.
- 6.10 The Contractor must provide maintenance (e.g. software patches, upgrades and bug fixes) and technical support for all software provided, including ongoing telephone support, problem determination and resolution.
- 6.11 The Contractor must provide technical support Monday through Friday, 8:00 am to 5:00 pm local time, excluding state holidays.
- 6.12 It is highly desirable that the Contractor provide a toll free telephone number for support.
- 6.13 It is highly desirable that the Contractor provide 24 hours per day, 7 days per week electronic support. Electronic support includes the ability to report problems to the Contractor on-line, the ability to browse a database containing problems and technical questions, and the ability to order fixes electronically.

#### **7.0 OTHER REQUIREMENTS**

- 7.1 This work is to be performed under the general supervision and direction of the Missouri Department of Transportation (MoDOT) and, if awarded any portion of the work, the Contractor agrees to furnish at his own expense all labor, equipment, materials, personnel, taxes, and fees necessary and required to complete the work, it being expressly understood that this solicitation is for completed work based upon the price(s) specified and is not a solicitation for rental of equipment or employment of labor by MoDOT or the MHTC, and MoDOT and the MHTC are to have no direction or control over the employees used by the Contractor in performance of the work.
- 7.2 *Safety:* Safety of the Contractor's personnel and equipment is the responsibility of the Contractor.
- 7.3 *Licenses:* As necessary, the Contractor shall be duly licensed in accordance with the city's, state's and county's statutory requirements to perform the work.
- 7.4 *Notices of Violations:* The Contractor shall be responsible for taking corrective action in response to any notices of violations issued as a result of the Contractors or any sub-contractors' actions or operations during the performance of this contract. Corrections for any such violations shall be at no additional cost to MHTC.
- 7.5 *Incorporation of Provisions:* The contractor shall include the provisions specified herein in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or Directives issued pursuant thereto. The contractor shall take such action with respect to any subcontractor or procurement as the MHTC or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request MHTC to enter into such litigation to protect the interests of the State and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

#### **8.0 PAYMENT**

- 8.1 Payment for work completed may be invoiced once per month. Payment will be based on the pricing submitted by the Contractor.

- 8.2 Other than the payment specified above, no other payments or reimbursements shall be made to the Contractor for any reason whatsoever.
- 8.3 Unless otherwise provided for in the solicitation documents, payment for all services required herein shall be made in arrears. The MHTC shall not make any advance deposits.

### **9.0 CHANGES, ADDITIONS, DEDUCTIONS AND EXTRA WORK**

- 9.1 Upon proper action by the Commission Representative, MHTC may authorize changes, additions or deductions from the work to be performed by written notice to the Contractor.
- 9.2 No extra work shall be done or any obligation incurred except upon written order by the Commission Representative. If any change causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this contract, the Commission Representative shall make an equitable adjustment and modify the contract in writing through the use of a supplemental to the contract.
- 9.3 The Commission Representative reserves the right to direct additional services not described in the bid document as changed or unforeseen conditions may require. Such direction by the Commission Representative shall not be a breach of this Agreement. In this event, a supplemental agreement will be negotiated and executed prior to the Contractor performing the additional or changed services, or incurring any additional cost therefore.

### **10.0 INSURANCE REQUIREMENTS**

- 10.1 The bidder is hereby referred to the attached Standard Bid/Proposal Provisions, General Terms and Conditions and Special Terms and Conditions, to review the insurance requirements for this project. The Contractor will be required to submit an insurance certificate, in the appropriate amounts, prior to being issued a notice to proceed with the work.

~ Remainder of page intentionally left blank ~

**PRICING PAGE**  
Pricing Page 1 of 1

Bid for furnishing "Copy Machine Maintenance Service". Complete this pricing page, sign where indicated, and return with other signed documentation as required.

Item #	Description:	Cost
1	<p><i>Monthly Maintenance Cost</i> based on 400,000 copies per month.</p> <p>Refer to section 6.0 "Specific Requirements" for details regarding services to be considered in the monthly cost.</p>	<p>\$ _____</p> <p>Per Month</p>
2	<p><i>Overage Rate</i></p> <p>Based for one (1) 8 ½" x 11" copy size.</p>	<p>\$ _____</p> <p>Per Copy</p>

**AWARD:** MHTC will be awarding the bid to the lowest, responsive bidder as determined by the per month maintenance service cost. Please refer to paragraph 2.4 herein.

**RENEWAL PERIOD:** MoDOT reserves the option for contract renewal of two (2), one year renewals, or any portion therein, upon mutual consideration by both parties. The bidder shall provide below the maximum percentage of increase for the renewal period. The percentage shall be computed against the current contract price during the renewal period. If renewal percentage is not provided, the prices during renewal periods will be the same as during the current contract period.

First Year Renewal Period \_\_\_\_\_ % of maximum increase

Second Year Renewal Period \_\_\_\_\_ % of maximum increase

Name of the Bidders Firm: \_\_\_\_\_

\_\_\_\_\_  
Name & Signature of Contractor's Authorized Representative

\_\_\_\_\_  
Date Signed

ATTACHMENT A  
**PREFERENCE IN PURCHASING PRODUCTS**

DATE: \_\_\_\_\_

The bidders attention is directed to Section 34.076 RSMo 2000 which gives preference to Missouri corporations, firms, and individuals when letting contracts or purchasing products.

Bids/Quotations received will be evaluated on the basis of this legislation.

**All vendors submitting a bid/quotation must furnish ALL information requested below.**

**FOR CORPORATIONS:**

State in which incorporated:

\_\_\_\_\_

**FOR OTHERS:**

State of domicile:

\_\_\_\_\_

**FOR ALL VENDORS:**

List address of Missouri offices or places of business:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**THIS SECTION MUST BE COMPLETED AND SIGNED:**

**FIRM NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**CITY:** \_\_\_\_\_ **STATE:** \_\_\_\_\_ **ZIP:** \_\_\_\_\_

**BY (signature required):** \_\_\_\_\_

**Federal Tax I.D. #:** \_\_\_\_\_ **if no Federal Tax I.D. # - list Social Security #:** \_\_\_\_\_

NOTE: For bid/quotation to be considered, the "Preference in Purchasing Products" form must be on file in the General Services (Procurement) Division and must be dated in the current calendar year.

**ATTACHMENT B**

**MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT**

The bidder's attention is directed to the Missouri Domestic Products Procurement Act, Sections 34.350 to 34/359, RsMO, which requires all manufactured goods or commodities used or supplied in the performance of this contract or any subcontract to be manufactured or produced in the United States.

Section 34.355, RsMO, requires the vendor or contractor to certify his compliance with Section 34.353 and, if applicable, Section 34.359, RsMO, at the time of bidding **and** prior to payment. Failure to comply with Section 34.353, RsMO, during the performance of the contract **and** to provide certification of compliance prior to payment will result in nonpayment for those goods or commodities.

Section 34.353.2, RsMO, specifies that it does not apply where the total contract is less than Twenty-Five Thousand Dollars (\$25,000.00). If your total bid is Twenty-Five Thousand Dollars (\$25,000.00) or more, you **must** complete this form as directed below.

**Failure to complete and return this document with this bid will cause the State to presume the manufactured goods or products listed in the bid are not manufactured or produced in the United States, and the bid will be evaluated on that basis. Please read the certification appearing below on this form.**

If all the goods or products specified in the attached bid which the bidder proposes to supply to the State shall be manufactured or produced in the "United States" as defined in Section 34.350, RsMO, check the box at left.

If only one item of any particular goods or products specified in the attached bid is manufactured or produced in the "United States" as defined in Section 34.350, RsMO, check the box at left and list the items (or item number) here:

\_\_\_\_\_

If any or all of the goods or products specified in the attached bid which the bidder proposes to supply to the State are **not** manufactured or produced in the "United States" as defined in Section 34.350, RsMO, then: (a) check the box at left; (b) list below, by item (or item number), the country other than the United States where each good or product is manufactured or produced; and (c) check the boxes to the left of the paragraphs below if applicable and list the corresponding items (or item numbers) in the spaces provided.

Item (or item number)	Location Where Item Manufactured or Produced

(attach an additional sheet if necessary)

The following specified goods or products cannot be manufactured or produced in the United States in sufficient quantities or in time to meet the contract specifications. Items (or item numbers): \_\_\_\_\_

\_\_\_\_\_

The following specified goods or products must be treated as manufactured or produced in the United States, in accordance with an existing treaty, law, agreement, or regulation of the United States, including a treaty between the United States and any foreign country regarding export-import restrictions or international trade. Items (or item numbers):

\_\_\_\_\_

**CERTIFICATION**

By submitting this document, completed as directed above, with a bid, the bidder certifies under penalty of making false declaration (Section 575.060, RsMO) that the information contained in this document is true, correct and complete, and may be relied upon by the State in determining the bidders qualifications under and in compliance with the Missouri Domestic Products Procurement Act.

The bidder's failure to complete and return this document with the bid as directed above will cause the State to presume the manufactured goods or products listed in the bid are not manufactured or produced in the United States, and the bid will be evaluated on that basis pursuant to Section 34.353.3(2), RsMO.

VENDOR BUSINESS NAME: \_\_\_\_\_

VENDOR SIGNATURE: \_\_\_\_\_

**Missouri Highways and Transportation Commission**  
**Standard Bid/Proposal Provisions, General Terms and Conditions and Special Terms and Conditions**

**STANDARD SOLICITATION PROVISIONS**

- a. The Missouri Department of Transportation (MoDOT) reserves the right to reject any or all bids/quotes/proposals, and to accept or reject any items thereon, and to waive technicalities. In case of error in the extension of prices in the bid/quote/proposal, unit prices will govern.
- b. All bids/quotes/proposals must be signed with the firm name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.
- c. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown, within the State of Missouri.
- d. Time of delivery is a part of the consideration and, if not otherwise stated in the solicitation documents, must be stated in definite terms by the Bidder/Offeror and must be adhered to. If time varies on different items, the Bidder/Offeror shall so state.
- e. If providing bids/quotes/proposals for commodities, the Bidder/Offeror will state brand or make on each item. If bidding or proposing other than the make, model or brand specified, the manufacturer's name, model number or catalog number must be given.
- f. **For bids/proposals of \$25,000 or more, no bids/proposals by telephone, telegram or telefax will be accepted.**
- g. The date specified for the returning of bids/quotes/proposals is a firm deadline and all bids/quotes/proposals must be received at the designated office by that time. The Department does not recognize the U.S. Mail, Railway Express Agency, Air Express, or any other organization, as its agent for purposes of accepting proposals. All proposals arriving at the designated office after the deadline specified will be rejected.

**GENERAL TERMS AND CONDITIONS**

**General Performance**

- a. This work is to be performed under the general supervision and direction of the Missouri Department of Transportation (MoDOT) and, if awarded any portion of the work, the Contractor agrees to furnish at his own expense all labor and equipment required to complete the work, it being expressly understood that this solicitation is for completed work based upon the price(s) specified and is not a solicitation for rental of equipment or employment of labor by MoDOT, and MoDOT is to have no direction or control over the employees used by the Contractor in performance of the work.

**Deliveries**

- a. Unless otherwise specified on the solicitation documents or purchase order, suppliers shall give at least 24 hours advance notice of each delivery. Delivery will only be received between the hours of 8:00 a.m. to 3:00 p.m., Monday through Friday. Material arriving after 3:00 p.m. will not be unloaded until the following workday. No material will be received on Saturday, Sunday or state holidays.
- b. If the prices bid herein include the delivery cost of the material, the Contractor agrees to pay all transportation charges on the material as FOB - Destination. Freight costs must be included in the unit price bid and not listed as a separate line item.
- c. Any demurrage is to be paid by the Contractor direct to the railroad or carrier.

**Nondiscrimination**

- a. The Contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- b. All solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of the Contractor's obligations under this contract and the Regulations, will be relative to nondiscrimination on the grounds of race, color, or national origin.
  - 1) **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, MoDOT shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
    - i. withholding of payments to the Contractor under the contract until the Contractor complies, and/or,
    - ii. cancellation, termination or suspension of the contract, in whole or in part.

**Contract/Purchase Order**

- a. By submitting a bid/quote/proposal, the Bidder/Offeror agrees to furnish any and all equipment, supplies and/or services specified in the solicitation documents, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of: (1) the solicitation documents, amendments thereto, and/or Best and Final Offer (BAFO) request(s) with any changes/additions, (2) the Contractor's proposal and/or submitted pricing, and (3) the MHTC's acceptance of the proposal and/or bid by purchase order or post-award contract.
- c. A notice of award does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services, the Contractor must receive a properly authorized purchase order and/or notice to proceed.
- d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the Contractor and the duly authorized representative of the MHTC, by a modified purchase order prior to the effective date of such modification. The Contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification.

**Subcontracting**

- a. It is specifically understood that no portion of the material or any interest in the contract, shall be subcontracted, transferred, assigned or otherwise disposed of, except with the written consent of MoDOT. Request for permission to subcontract or otherwise dispose of any part of the work shall be

**Missouri Highways and Transportation Commission**  
**Standard Bid/Proposal Provisions, General Terms and Conditions and Special Terms and Conditions**

in writing to MoDOT and accompanied by documentation showing that the organization which will perform the work is particularly experienced and equipped for such work.

- b. Consent to subcontract or otherwise dispose of any portion of the work shall not be construed to relieve the Contractor of any responsibility for the production and delivery of the contracted work and the completion of the work within the specified time.
- c. All payments for work performed by a subcontractor shall be made to the Contractor to whom the contract was awarded and the purchase order issued.

**Invoicing and Payment**

- a. MoDOT is exempt from paying Missouri Sales Tax, Missouri Use Tax and Federal Excise Tax. However, the Contractor may themselves be responsible for the payment of taxes on materials they purchase to fulfill the contract. A Federal Excise Tax Exemption Certificate will be furnished to the successful Bidder/Offeror upon request.
- b. Each invoice should be itemized in accordance with items listed on the purchase order and/or contract. The statewide financial management system has been designed to capture certain receipt and payment information. Therefore, each invoice submitted must reference the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.
- c. Unless otherwise provided for in the solicitation documents, payment for all equipment, supplies, and/or services required herein shall be made in arrears. The Missouri Highways and Transportation Commission (MHTC) shall not make any advance deposits.
- d. The MHTC assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any authorized quantity is subject to the MHTC's rejection and shall be returned at the Contractor's expense.
- e. The MHTC reserves the right to purchase goods and services using the state-purchasing card.

**Applicable Laws and Regulations**

- a. The contract shall be construed according to the laws of the State of Missouri. The Contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract.
- b. The Contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations. Prior to the issuance of a purchase order and/or notice to proceed, the Contractor may be required to submit to MoDOT a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.
  - 1) Prior to the issuance of a purchase order and/or notice to proceed, all **out-of-state** Contractors **providing services** within the state of Missouri must submit to MoDOT a copy of their current Transient Employer Certificate from the Department of Revenue, in addition to a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.
- c. The exclusive venue for any legal proceeding relating to or arising, out of the contract shall be in the Circuit Court of Cole County, Missouri.

**Executive Order**

- a. The Contractor shall comply with all the provisions of Executive Order 07-13, issued by the Honorable Matt Blunt, Governor of Missouri, on the sixth (6<sup>th</sup>) day of March, 2007. This Executive Order, which promulgates the State of Missouri's position to not tolerate persons who contract with the state engaging in or supporting illegal activities of employing individuals who are not eligible to work in the United States, is incorporated herein by reference and made a part of this Agreement.
  - 1) "By signing this Agreement, the Contractor hereby certifies that any employee of the Contractor assigned to perform services under the contract is eligible and authorized to work in the United States in compliance with federal law."
  - 2) In the event the Contractor fails to comply with the provisions of the Executive Order 07-13, or in the event the Commission has reasonable cause to believe that the contractor has knowingly employed individuals who are not eligible to work in the United States in violation of federal law, the Commission reserves the right to impose such contract sanctions as it may determine to be appropriate, including but not limited to contract cancellation, termination or suspension in whole or in part or both.
  - 3) The Contractor shall include the provisions of this paragraph in every subcontract. The Contractor shall take such action with respect to any subcontract as the Commission may direct as a means of enforcing such provisions, including sanctions for noncompliance.

**Preferences**

- a. In the evaluation of bids/quotes/proposals, preferences shall be applied in accordance with Chapter 34 RSMo. Contractors should apply the same preferences in selecting subcontractors.
- b. By virtue of statutory authority, RSMo. 34.076 and 34.350 to 34.359, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri. Such preference shall be given when quality is equal or better and delivered price is the same or less.
  - 1) If attached, the document entitled "**PREFERENCE IN PURCHASING PRODUCTS**" should be completed and returned with the solicitation documents.
  - 2) If attached, the document entitled "**MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT**" should be completed and returned with the solicitation documents. **Applies if bid is Twenty-Five Thousand Dollars (\$25,000.00) or more.**
- c. In the event of a tie of low bids, the MHTC reserves the right to establish the method to be used in determining the award

**Remedies and Rights**

- a. No provision in the contract shall be construed, expressly or implied, as a waiver by the MHTC of any existing or future right and/or remedy available by law in the event of any claim by the MHTC of the Contractor's default or breach of contract.
- b. The Contractor agrees and understands that the contract shall constitute an assignment by the Contractor to the MHTC of all rights, title and interest in and to all causes of action that the Contractor may have under the antitrust laws of the United States or State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or produced by the Contractor in the fulfillment of the contract with the MHTC.

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- c. In the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request MoDOT to enter into such litigation to protect the interests of the MHTC, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

**Cancellation of Contract**

- a. The MHTC may cancel the contract at any time for a material breach of contractual obligations or for convenience by providing the Contractor with written notice of cancellation. Should the MHTC exercise its right to cancel the contract for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the Contractor.
- b. If the MHTC cancels the contract for breach, the MHTC reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the MHTC deems appropriate and charge the Contractor for any additional costs incurred thereby.

**Bankruptcy or Insolvency**

- a. Upon filing for any bankruptcy or insolvency proceeding by or against the Contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assigned the benefit or creditors, the Contractor must notify MoDOT immediately. Upon learning of any such actions, the MHTC reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the Contractor responsible for damages.

**Inventions, Patents, and Copyrights**

- a. The Contractor shall defend, protect, and hold harmless the MHTC, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the Contractor's performance or products produced under the terms of the contract.

**Inspection and Acceptance**

- a. No equipment, supplies, and/or services received by MoDOT pursuant to a contract shall be deemed accepted until MoDOT has had reasonable opportunity to inspect said equipment, supplies, and/or services.
- b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the Contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.
- c. The MHTC reserves the right to return any such rejected shipment at the Contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.
- d. The MHTC's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the MHTC may have.

**Warranty**

- a. The Contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by MoDOT, (2) be fit and sufficient for the purpose expressed in the solicitation documents, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.
- b. Such warranty shall survive delivery and shall not be deemed waived either by reason of the MHTC's acceptance of or payment for said equipment, supplies, and/or services.

**Status of Independent Contractor**

- a. The Contractor represents itself to be an independent Contractor offering such services to the general public and shall not represent itself or its employees to be an employee of the MHTC. Therefore, the Contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers' compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save and hold the MHTC, its officers, agents and employees harmless from and against any and all losses (including attorney fees) and damage of any kind related to such matters.

**Indemnification**

- a. The Offeror shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Offeror's performance of its obligations under this Agreement.

**Insurance**

- a. The Contractor shall purchase and maintain such insurance as will protect him from claims under workmen's compensation acts and other employee benefit acts, from claims for damages because of bodily injury, including death, and from claims for damages to property which may arise out of or result from the Contractor's operations under this Contract, whether such operations be by himself or by any Subcontractor or anyone directly or indirectly employed by any of them.
- b. This insurance shall be written for not less than any limits of liability specified as part of this contract, or required by law, whichever is the greater, and shall include contractual liability insurance as applicable to the Contractor's obligations under this contract. Unless otherwise specified, insurance limits shall be as follows:
- 1) Workmen's Compensation: Workers Compensation Insurance, including "Occupational Disease Act" requirements, must be maintained if required by law.
  - 2) Public Liability (includes property damage and personal injury):
    - i. Not less than \$400,000 for any one person in a single accident or occurrence.
    - ii. Not less than \$2,500,000 for all claims arising out of a single occurrence.
  - 3) Special Hazard Insurance: As required.